

REMARKS

Applicant respectfully requests reconsideration of the application in view of the claims as currently pending and the following reasons. Claims 1, 2, 4 and 5 are amended. No new matter is added. Claims 1-20 remain pending in the present Application upon entry of this Amendment and Reply.

Claim Rejections – 35 U.S.C. § 112

1. Claims 4-5

On page 2 of the Office Action, the Examiner rejects Claims 4 and 5 under U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Examiner states that Claims 4 and 5 recite “a first portion having a plurality of low profile teeth; a second portion having a plurality of normal profile teeth; and a third portion having a plurality of angled profile teeth.” Examiner, however, states that Applicant has neither defined “low profile,” “normal profile,” and “high profile” nor has Applicant defined those terms relative to one another. Lastly, Examiner states that it is unclear what “low,” “normal,” or “high” is.

In response, Applicant respectfully disagree with Examiner’s assertion that it is unclear what “low,” “normal,” or “high” is. To the contrary, Applicant note that one of ordinary skill in the art at the time of the invention would readily understand the meaning of “low,” “normal,” and “high” and would readily be able to determine whether a profile is lower or high and whether teeth are angled compared to other teeth. Furthermore, Claims 4 and 5 have been amended to now recite the following limitation, “the normal profile teeth being larger in size than the low profile teeth.” As such, Applicant respectfully request withdrawal of the rejection of Claim 1 under U.S.C. § 112.

* * * * *

Claim Rejections – 35 U.S.C. § 102

1. Claims 1, 2 and 6 (Herider et al.)

On page 3 of the Office Action, Examiner rejects Claims 1, 2 and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,853,121 to Herider et al. (“Herider ‘121’”).

Independent Claim 1 as amended recites, *inter alia*, “a recliner mechanism for adjusting the position of a seat back frame assembly” comprising, in combination with other elements, “wherein the first and second distal ends move at the same time.” Claims 2 and 6 depend from amended independent Claim 1.

Herider ‘121 does not disclose “a recliner mechanism for adjusting the position of seat back frame assembly,” as recited in independent Claim 1. Herider ‘121 further does not disclose a recliner mechanism wherein the first and second distal ends move at the same time. Herider ‘121 discloses an adjustable seat structure comprising, *inter alia*, a ratcheted wheel (68), and two pawls (80, 82) each having a set of ratchet teeth (84) to engage the ratchet wheel (68) wherein one of the pawls moves while the other is locked in place. There is no disclosure in Herider ‘121 that both pawls (80 and 82) are configured to be operable to move at the same time. Accordingly, Herider ‘121 does not anticipate that which is disclosed and claimed in the present application and in Claim 1.

Claims 2 and 6 which depend from amended independent Claim 1 are therefore also patentable (35 U.S.C. § 112 ¶4). Applicant respectfully request withdrawal of the rejection of Claims 1, 2 and 6 under 35 U.S.C. § 102(b).

2. Claims 1-3 and 6 (Herider et al.)

On page 4 of the Office Action, Examiner rejects Claims 1-3 and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,892,487 to Herider et al. (“Herider ‘487’”).

Independent Claim 1 as amended recites, *inter alia*, “a recliner mechanism for adjusting the position of a seat back frame assembly” comprising, in combination with other elements, “wherein the first and second distal ends move at the same time.” Claims 2, 3 and 6 depend from amended independent Claim 1.

Herider '487 does not disclose "a recliner mechanism for adjusting the position of seat back frame assembly," as recited in independent Claim 1. Herider '487 further does not disclose a recliner mechanism wherein the first and second distal ends move at the same time. Herider '487 discloses an adjustable seat structure comprising, *inter alia*, a ratcheted wheel (68), and two pawls (80, 82) each having a set of ratchet teeth (84) to engage the ratchet wheel (68) wherein one of the pawls moves while the other is locked in place. There is no disclosure in Herider '487 that both pawls (80 and 82) are configured to be operable to move at the same time. Accordingly, Herider '487 does not anticipate that which is disclosed and claimed in the present application and in Claim 1.

Claims 2, 3 and 6 which depend from amended independent Claim 1 are therefore also patentable (35 U.S.C. § 112 ¶4). Applicant respectfully request withdrawal of the rejection of Claims 1-3 and 6 under 35 U.S.C. § 102(b).

3. Claims 1, 2 and 6 (Minkenberg et al.)

On page 5 of the Office Action, Examiner rejects Claims 1-2 and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,865,285 to Minkenberg et al. ("Minkenberg").

Claim 1 as amended recites, *inter alia*, "a recliner mechanism for adjusting the position of a seat back frame assembly" comprising, in combination with other elements, "wherein the first and second distal ends move at the same time." Claims 2 and 6 depend from amended independent Claim 1.

Minkenberg does not disclose "a recliner mechanism for adjusting the position of seat back frame assembly," as recited in independent Claim 1. In particular, Minkenberg neither discloses a locking system nor does Minkenberg disclose a system wherein the first and second distal ends move at the same time. Minkenberg discloses an adjustable detent system having a manual drive operating for producing rotary movement of vehicle seats comprising, *inter alia*, a drive wheel (5), and two detent elements (3a, 3b) each having teething (30) to engage the drive wheel (5). There is no disclosure in Minkenberg that both detent elements (3a and 3b) are configured to be operable to move at the same time and configured as a

locking system. Accordingly, Minkenberg does not anticipate that which is disclosed and claimed in the present application and in Claim 1.

Claims 2 and 6 which depend from amended independent Claim 1 are therefore also patentable (35 U.S.C. § 112 ¶4). Applicant respectfully requests withdrawal of the rejection of Claims 1-2 and 6 under 35 U.S.C. § 102(b).

4. Claims 1, 2 and 6 (Schwarzbich)

On page 6 of the Office Action, Examiner rejects Claims 1, 2 and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,178,838 to Schwarzbich ("Schwarzbich").

Independent Claim 1 recites, *inter alia*, "a recliner mechanism for adjusting the position of a seat back frame assembly" comprising, in combination with other elements, "wherein the first and second distal ends move at the same time." Claims 2 and 6 depend from amended independent Claim 1.

Schwarzbich does not disclose "a recliner mechanism for adjusting the position of seat back frame assembly," as recited in independent Claim 1. In particular, Schwarzbich does not disclose wherein the first and second distal ends move at the same time. Schwarzbich discloses an adjustable seat mechanism comprising, *inter alia*, a gear (28), and two claws (20, 22) each having teeth to engage the gear (28) wherein one of the claws moves while the other is locked in place. There is no disclosure in Schwarzbich that both claws (20 and 22) are configured to be operable to move at the same time. Accordingly, Schwarzbich does not anticipate that which is disclosed and claimed in the present application and in Claim 1.

Claims 2 and 6 which depend from amended independent Claim 1 are therefore also patentable (35 U.S.C. § 112 ¶4). Applicant respectfully requests withdrawal of the rejection of Claims 1-2 and 6 under 35 U.S.C. § 102(b).

* * * * *

Claim Rejections – 35 U.S.C. § 103

1. Claims 4-5 (Herider et al. and Official Notice)

On page 9 of the Office Action, Examiner rejects Claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Herider '487.

Independent Claim 1 as amended recites, *inter alia*, “a recliner mechanism for adjusting the position of a seat back frame assembly” comprising, in combination with other elements, “wherein the first and second distal ends move at the same time.”

In rejecting claims 4 and 5, the Examiner states:

Examiner takes official notice that it is only a matter of design choice to manufacture some of the teeth of a pawl or a sector gear with small to large teeth or to make the pawls with three different portions having three different sizes of teeth since the pawl with one or two different sizes of teeth, as taught by Herider et al., is going to perform the same function and work just as well, as the pawls with the three different portions and three different sizes of teeth, as taught by the present invention.

Claims 4 and 5 depend from amended independent Claim 1.

The Applicant reiterates the comments above with respect to Herider et al. as though fully set forth here. The Applicant submits that independent Claim 1, as amended, is patentable over Herider et al., for the reasons stated above which comments are also reiterated here as though fully set forth. The rejection of Claims 4 and 5 which depend from amended independent Claim 1 is now moot. See 35 U.S.C. § 112 ¶4.

The Applicant respectfully requests withdrawal of the rejection of Claims 4 and 5 under 35 U.S.C. § 103(a).

* * * * *

Allowable Subject Matter

1. Claims 7-15

On page 9 of the Office Action, Examiner states that Claims 7-15 are objected to as being dependent upon a rejected base claim, but would allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has revised Claim 7 herein solely for the purpose of placing Claim 7 in independent format including the limitations of its parent claims. The scope of Claim 7 is unchanged and it is respectfully asserted that the elements of Claim 7 are entitled to their full range of equivalents.

In view of placing Claim 7 in independent format, the Examiner's objection to Claims 7-15 is now moot and the Applicant respectfully requests withdrawal of Examiner's objection of Claims 7-15.

2. Claims 16-20

On page 10 of the Office Action, Examiner states that Claims 16-20 are allowed. Applicant acknowledges the Examiner's position regarding Claims 16-20.

* * * * *

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 12-2136. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 12-2136. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 12-2136.

Applicant respectfully asserts that all issues raised in the Office Action have been fully addressed in this Amendment and Response and that the claims as pending are now in condition for allowance which action is respectfully requested. If the Examiner disagrees with the above for any reason and believes a telephone Interview would be useful in resolving any such issue, it is requested the Examiner contact the undersigned.

Respectfully submitted,

Date: August 1, 2008

By: /John A. VanOphem/

Butzel Long, PC
Stoneridge West
41000 Woodward Avenue
Bloomfield Hills, MI 48304
Customer Number: 50659
Telephone: (248) 258-2913
Facsimile: (248) 258-1439

John VanOphem
Attorney for Applicants
Registration No. 38,646